

Ignition Interlock Devices and Vehicle Immobilization:

Phase II Report

**Analysis with Legal Professionals, Law Enforcement,
Counties, and Assessment Agencies Regarding the Efficacy of
Vehicular Sanctions**

By:

**Adam D. Jacobs,
WISCONSIN DEPARTMENT OF TRANSPORTATION
BUREAU OF TRANSPORTATION SAFETY in Conjunction
with the WISCONSIN DEPARTMENT OF HEALTH AND
FAMILY SERVICES**

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Introduction

The initial phase of evaluating Wisconsin's laws on Ignition Interlock Devices and vehicle immobilization discussed the existing scholarly research, and raised questions to be explored in greater depth. In the second phase, agency and court opinions on various aspects of IIDs and vehicle immobilization were collected. This report presents, analyzes and summarizes those opinions.

The mandate for this study arose from Section 88(3) of 1999 Wisconsin Act 109 Act, which stated:

“The department of transportation and the department of health and family services shall study jointly and evaluate the effectiveness of using ignition interlock devices and vehicle immobilization as methods of reducing the prevalence of drunk driving and the recidivism of drunk-driving offenders. *The departments shall consult with the counties, the law enforcement agencies, the courts and the providers of services to alcohol abusers regarding this study and evaluation.* No later than the first day of the 24th month beginning after the effective date of section 343.301 of the statutes, as created in this act, the department shall submit a report to the legislature in the manner provided under section 13.172 (2) of the statutes that contains the conclusions of the departments' study and evaluation and any recommendations concerning implementation of the conclusions.” [emphasis added]

To achieve this, the Department of Transportation distributed surveys to law enforcement, alcohol assessment professionals, district attorneys, judges and private attorneys statewide, and also consulted with IID vendors. By conferring with sheriffs, county human service agencies, district attorneys and circuit court judges, the study fulfilled the mandate of consultation with the counties.

Chapter 1 of this report discusses methodology, selection, and participation in the survey. Chapter 2 shows participants' responses to several statements about IIDs and immobilization. In Chapter 3, responses to open-ended questions are presented from each group surveyed, and conclusions drawn for each group. Chapter 4 analyzes the responses as a whole. Chapter 5 addresses the overarching issue of IID non-compliance, attempting to synthesize the concerns and suggestions articulated across all groups. The report concludes with the most important findings.

Chapter One: Methodology of Phase II

Before undertaking a study, Bureau of Transportation Safety staff discussed various possible approaches to completing the legislative mandate. Separate surveys were designed and distributed to law enforcement officials, assessment professionals (people who provide counseling and rehabilitative services to alcoholics and alcohol abusers) and legal professionals (district attorneys, defense attorneys, and circuit court judges).

Officials in the Wisconsin State Patrol provided names of sheriffs, police chiefs, and state troopers for the *law enforcement* survey. These officials were selected for their knowledge, experience, and represented a diversity of views for different parts of the state. For the *assessment professionals*, surveys went to one agency in each county statewide. For *the courts*, a statewide non-random selection was done for District Attorneys, private attorneys who defend OWI cases, and circuit court judges, attempting to gain a balanced palette of opinion as suggested in phase I of this report.

The legislative mandate also called for consultation with counties. It was decided that since county-level officials were consulted in each of the three groups highlighted above, the mandate was fulfilled.

Surveys were sent to 15 law enforcement professionals, 69 assessment agencies (some counties had consolidated service agencies with neighboring counties), 20 district attorneys, 10 private attorneys, and 20 circuit court judges. Where available, surveys were distributed by email, though most were sent by traditional mail. Participants were given three weeks to respond, and the response rate was just above 50 percent. 73 out of 134 surveys were returned: 9 by law enforcement, 28 by legal professionals, and 35 by assessment professionals.

The exact wording of the surveys can be seen in full in Appendices A, B, and C at the end of this report.

Survey design

When designing a survey, there are two extremes within which to work. On the one hand, the survey can prompt the respondent with a *closed question*. For example, all of the questions could be asked in a yes/no manner, or each question would require a numerical answer. ‘Are IIDs a good legal tool, yes or no’ is a closed question. On the other extreme, every question can be an open question, without any set responses to choose from. For example, “What do you think about IIDs?” would be an open question.

The eventual survey opted for a mix of both closed and open question, with many more open questions. Since focus groups were not conducted, it was deemed important to give participants the space to provide first-hand anecdotes and to expand on their experiences and opinions with vehicle sanctions.

The first four questions were administered on a *Likert Scale*. A Likert Scale is a form of closed questioning that presents a set of statements with attitude responses to choose from. The available responses to every question is: Strongly Agree, Agree, Neutral, Disagree, and Strongly Disagree. The participant circles one of these responses. With a Likert Scale, discerning overall attitudes within a group becomes easier – especially with bar graphs, it is clear whether a group generally agrees, disagrees, or is split on an issue. Also, this form of questioning shows how strongly people feel about the questions.

The remaining 12 questions (13 for legal professionals) were open ended. Participants were asked about their experience with IIDs, and about the training they had received. In some questions, a fact was presented, and people were asked to explain the fact. For example, question 7 asked, “DMV data shows that the majority of court orders for IIDs are not complied with. Why do you think this is the case? Is the problem the device itself, or the implementation of the law?” Open questions were very useful in soliciting not only opinions and experience, but also observations about difficulties, and suggestions for improvements.

Chapter Two: Responses to Statement about IIDs and Immobilization

Responses to Likert scale questions

A Likert scale is a simple way to quantify someone's opinions. A person is given a statement and asked to choose from five responses: Strongly Agree, Agree, Neutral, Disagree, and Strongly Disagree. All participants were presented with Likert scale questions on the following four statements:

1. ***"The ignition interlock device is an effective law enforcement tool to curb drunk driving."***
2. ***"Vehicle immobilization is an effective law enforcement tool to curb drunk driving."***
3. ***"By providing positive and negative feedback to the driver, the IID changes the behavior of the offender."***
4. ***"Money spent on IIDs could be spent more effectively on other programs such as education and prevention."***

The following graphs show the responses to these statements:

Phase II Analysis

Law Enforcement Overall Response

1. "The Ignition Interlock Device is an effective law enforcement tool to curb drunk driving."

2. "Vehicle immobilization is an effective tool to curb drunk driving."

3. "By providing positive and negative feedback to the driver, the IID changes the behavior of the offender."

4. "Money spent on IIDs could be spent more effectively on other programs such as education and prevention."

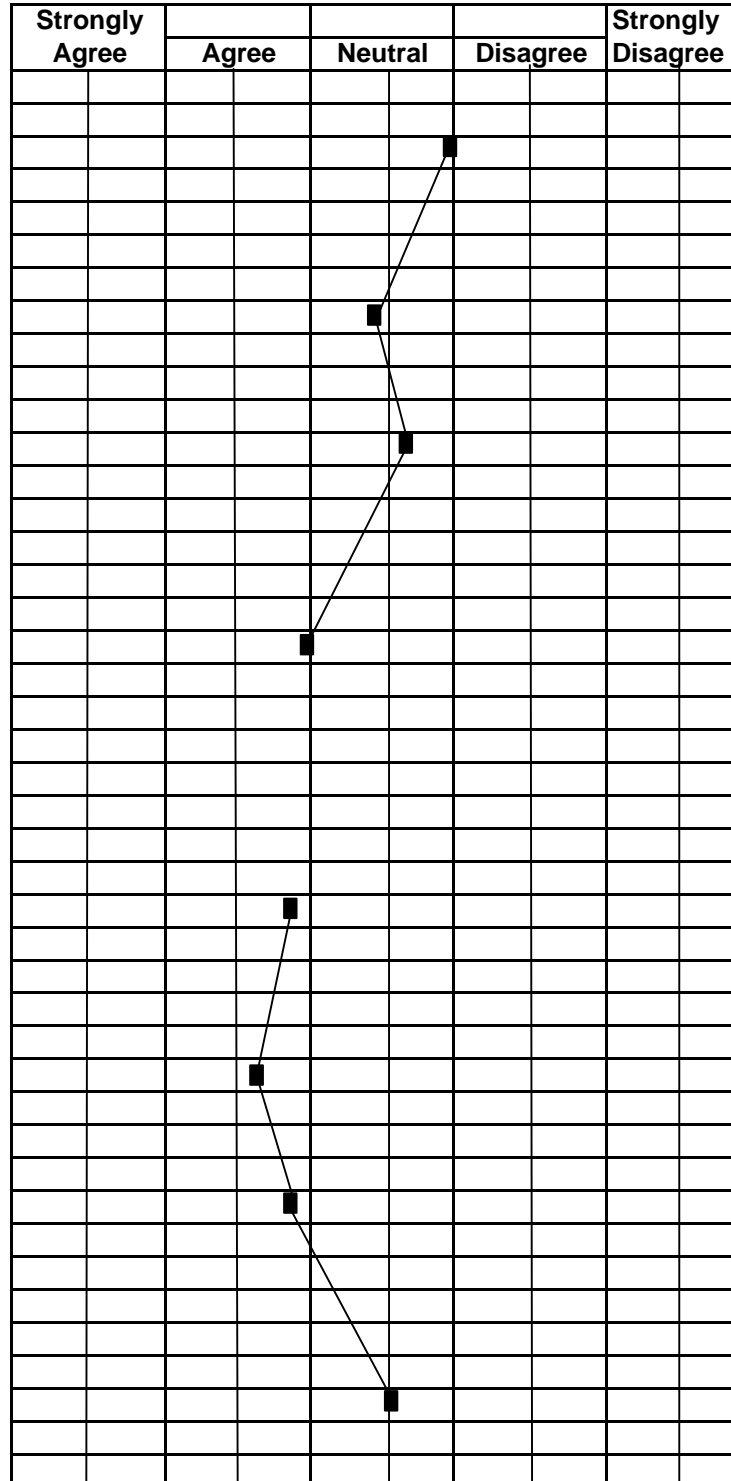
Alcohol Assessment Agencies

1. "The Ignition Interlock Device is an effective law enforcement tool to curb drunk driving."

2. "Vehicle immobilization is an effective tool to curb drunk driving."

3. "By providing positive and negative feedback to the driver, the IID changes the behavior of the offender."

4. "Money spent on IIDs could be spent more effectively on other programs such as education and prevention."



Phase II Analysis (continued)

Legal Community Response

1. *"The Ignition Interlock Device is an effective law enforcement tool to curb drunk driving."*

2. *"Vehicle immobilization is an effective tool to curb drunk driving."*

3. *"By providing positive and negative feedback to the driver, the IID changes the behavior of the offender."*

4. *"Money spent on IIDs could be spent more effectively on other programs such as education and prevention."*

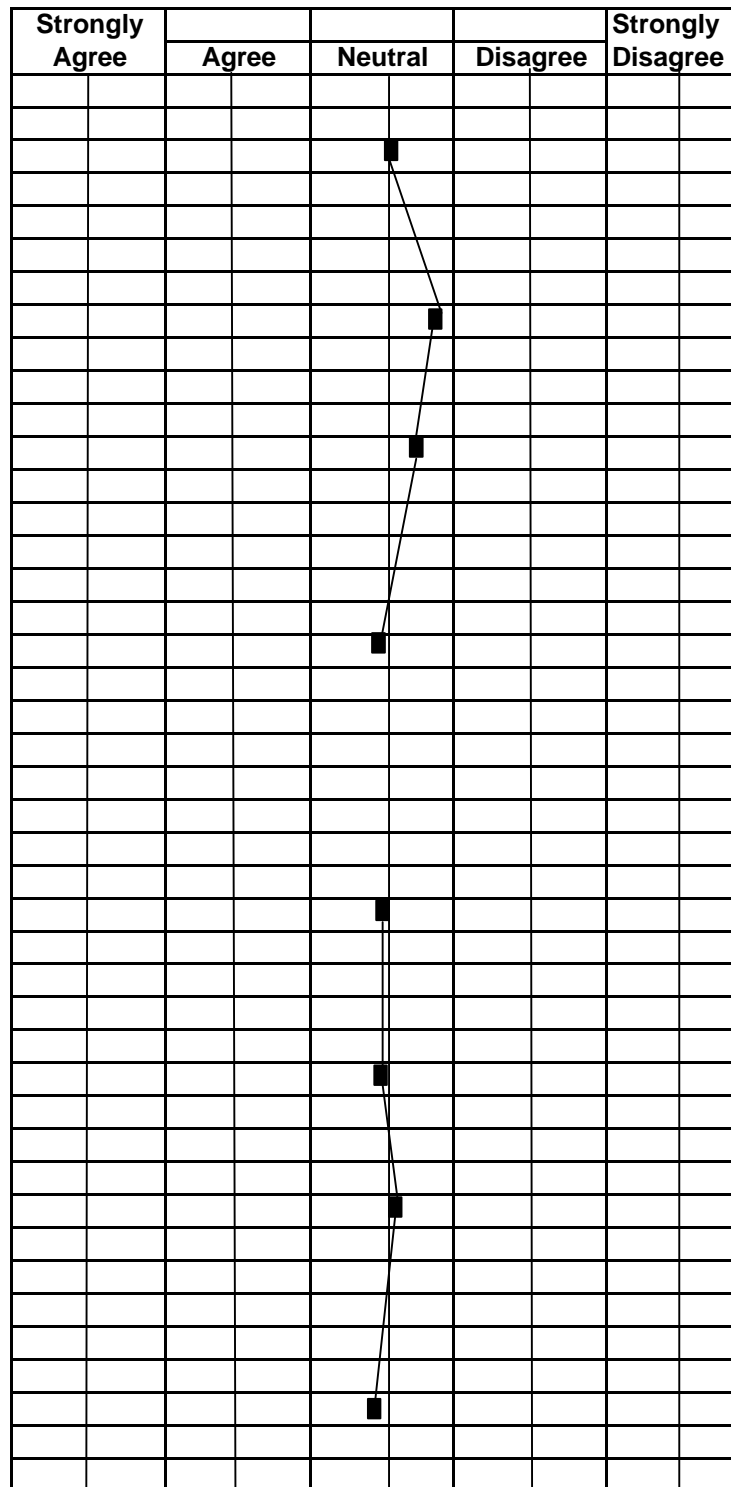
Total Responses

1. *"The Ignition Interlock Device is an effective law enforcement tool to curb drunk driving."*

2. *"Vehicle immobilization is an effective tool to curb drunk driving."*

3. *"By providing positive and negative feedback to the driver, the IID changes the behavior of the offender."*

4. *"Money spent on IIDs could be spent more effectively on other programs such as education and prevention."*



Trends in responses

Assessment professionals responded more favorably than the other two groups to statement 1, 'The Ignition Interlock Device is an effective law enforcement tool to curb drunk driving.' Assessment professionals comprised six of the seven people answering 'Strongly Agree' to statement 1, and zero out of the five answering 'Strongly Disagree.' By contrast, the legal professionals respondents accounted for all five 'Strongly Disagree' responses, and only one of the seven 'Strongly Agree' responses. Almost half of assessment professionals (17 out of 35) marked 'Agree' or 'Strongly Agree,' compared with only two out of nine law enforcement and 10 out of 28 legal professionals members.

Just as they did with IIDs, assessment professionals had a higher opinion of vehicle immobilization as a law enforcement tool compared to law enforcement and legal professionals. Assessment professionals accounted for the majority of the 'Strongly Agree' responses and were much more likely to mark 'Agree' or 'Strongly Agree' than the other two groups.

In line with the first two statements, assessment professionals had more faith in the IID as a device that could change behavior. Only six out of 28 legal professionals respondents (21%) and two out of nine law enforcement respondents (22%) answered 'Agree' or 'Strongly Agree' to that statement (though the sample of law enforcement was too small to draw significant conclusions from). By contrast, 13 out of 35 assessment professionals (37%) answered 'Agree' or 'Strongly Agree.'

Statement 4, 'Money spent on IIDs could be spent more effectively on other programs, such as education and prevention,' provided the most agreement among the groups. Moreover, the distribution of both group and aggregate responses followed a normal bell curve distribution. Respondents were split between agreement and disagreement, with many answering 'Neutral.'

Overall, assessment professionals were more optimistic about the usefulness of IIDs. Members of the legal profession and law enforcement were more skeptical. The aggregate of respondents was evenly split on whether IIDs were using feedback to teach offenders, and whether money spent on IIDs could be more effective elsewhere.

Chapter Three: Responses to Open Questions

In the following sections, responses are transcribed verbatim from the surveys. The comments show the range of opinions and experience with IIDs. On certain questions, there is considerable consensus. On others, stark divisions appear. The responses are grouped by profession, and at the end of each section, conclusions are summarized.

Law enforcement opinions

Law enforcement professionals operate at the beginning and the end of the vehicle sanction process. The traffic stop and arrest leads to the court order, and the subsequent traffic stop may uncover non-compliance with court orders. Although law enforcement may deal with alcohol abusers on a daily basis, they rarely deal with the same individuals continuously.

In the survey, officers were presented with very few tangible facts about IIDs. This was intentional, since the surveys were intended to gauge the comfort level, knowledge, and unbiased opinion of the participant.

Conclusions from law enforcement

- Many law enforcement professionals did not feel well informed about the IID and the law surrounding it. This could be due to the relative obscurity of IIDs in most communities – many officers reported never seeing an IID at all. Some said that they would need more information about whether IIDs stop recidivism and the number of times an IID stopped a driver from operating while intoxicated. Most said their knowledge of IIDs was adequate or limited, and none said they felt very well informed about the device.
- These responses constitute a finding in and of themselves. *Law enforcement rarely sees or deals with ignition interlock devices, despite the fact that the device is the primary vehicular sanction ordered statewide.* In the pool of all drivers, of course, IIDs are rare. Nonetheless, given that thousands of IIDs have been ordered each year for the last several years, it is telling that an officer would never encounter one in the field. This points to a recurring issue in the study and assessment of IIDs – the lack of a mechanism to ensure compliance with a court order.
- Law enforcement responses were critical and skeptical of the IID, as a device and as a policy. One survey concluded “Drop IIDs.” Law enforcement professionals saw vehicle sanctions as a good idea with serious implementation problems. They expressed skepticism about the feasibility of not just IIDs, but all vehicle sanctions. One officer said about vehicular sanctions:

All have drawbacks and are of questionable effectiveness, as habitual drunks will find a way to drive anyway.

Seizure was disliked, because of the inordinate amount of time spent seizing vehicles of questionable quality, but also seen by some as a more effective sanction than IIDs.

- Addressing the issue of IID cost, most law enforcement professionals felt this price was merited by the behavior of the offender.
- Coordination with other agencies, and tracking of IID orders, appears to differ greatly statewide. But most officers said they had no mechanism to investigate whether a person was subject to an IID order. Information sharing with the courts was minimal.
- Some officers saw the task of assuring compliance with vehicle sanctions as an unnecessary burden on police agencies.

Experience with IIDs and immobilization

“None.”

“I believe in the 5 years I have been in (rural location) we have been involved with the immobilization of 2 vehicles and I have had no direct involvement with the IID.”

“I receive copies of all of the IID installations ordered in Dane County. I enter them in a database and send out monthly reports to the Patrol Staff. As far as I know, we have not encountered any in an OWI situation.”

“These [IIDs] are extremely rare. Perhaps one trooper in 80 encounters one in a year.”

“No personal experience, but in discussions with staff it [the IID] is not well received.”

“None and none.”

“No experience with IID. Never encountered IIDs.”

Opinions about IID non-compliance and cost

“I believe it [the problem of non-compliance] is primarily the implementation of the law.”

“No enforcement or follow-up.”

“The device is costly to the offender.”

“If those with IID court orders who did not comply were issued bench warrants for contempt of court, compliance would improve.”

“It is a fair price to pay for their poor judgment. Should they not want to pay, they should not be allowed to drive.”

“It may be somewhat of a hardship, but should not be a burden placed on the taxpayers.”

“Defendant fails/refuses to comply and courts have no effective checking/compliance system. Local jurisdictions not notified.”

“Many who have this level of a drinking problem are not likely to hold down good paying jobs. They are poor and can’t afford this.”

Opinions on coordination with other agencies

“A list of who is supposed to have such a device on their vehicles would be a step in the right direction. Such data could be on their driving record as well as disseminated to police agencies or suspended/revocation logs.”

“[There is] none, a little would be helpful.”

“Communication is good between law enforcement and people involved in treatment of alcoholics and drunk drivers. Communication and coordination with the courts could be better.”

“No coordination/info sharing that the department is aware of. We have no documented OWI cases with IID as a sentence.”

“There is such a large volume of citations written and short court staff ... [with] the volume of citations that they deal with some things can easily fall in the cracks.”

Assessment professional opinions

Assessment professionals are in a very different situation than legal professionals or law enforcement officers. Rather than prescribing or enforcing the vehicle sanctions, assessment professionals are dealing with the people who need, and often flaunt, those sanctions. The assessment worker's view of the IID might be more positive because he only sees it in the context of the compliant recidivist. Since coordination with the courts is minimal in most counties, assessment professionals may not be aware of clients who are not complying with court orders. These recidivists have little reason to mention their sanction to their counselor. In other words, the more positive response might come from a selective viewing of IID-ordered drivers, namely only those who are already complying.

Some surveys from this group were returned intentionally uncompleted. One recipient had attached the following note: "We don't use such a system. No one in this area does. We have no knowledge." Two others wrote, "We have had minimal experience with the device," and "I've never heard of even one. I've been doing IDP assessments & treatment of IDP clients for 26 years."

Langlade, Lincoln, and Clark Counties reported no known use of IIDs or immobilization.

Conclusions from assessment professionals

- Assessment professionals, even more so than law enforcement professionals, deal with alcoholics on a daily basis. Yet assessment professionals had rarely seen IIDs, except in demonstration. Most said their knowledge of IIDs was acceptable or less, often coming second-hand such as through documentation and written reports. Because of this they may have an unrealistic expectation of the real-world application of IIDs.
- IIDs may be an effective tool; however, most respondents agreed that IIDs are a small component of the large task of rehabilitating the recidivist.
- Assessment professionals are cautiously optimistic about IIDs. They see an offender in need of any help they can get. The IID seems like a humane tool that may help a person's recovery.
- Assessment professionals often expressed a desire for more information sharing between the courts and law enforcement. Many felt that the nuances of OWI law were frequently changing, and that they were not made sufficiently aware of the changes.
- Many thought the one-year delay in IID orders, required by federal guidelines, was a detriment to the IID program.

- Assessment professionals were split on the question of IID cost. Many articulated quite clearly that a recidivist needs to assume responsibility for their actions, and paying for an IID is a small concession to ask after multiple OWIs. Others pointed to the constrained financial situation of most repeat offenders and thought IIDs were an unreasonable burden on low-income offenders.
- Assessment professionals disapproved of the courts' handling of IIDs. The lack of follow-up on IID orders was common knowledge to most recidivists, and assessment professionals pointed to this as the reason for non-compliance.

Experience with IIDs and immobilization

"The availability of obtaining the IID was initially an issue – the individual who had an IID did not have his recovery benefited – he just kept on trying to find ways to beat the device."

"For those who follow their court order and get it installed, it helps them stay sober."

"The few IID orders I have worked with did not assist in recovery at all."

"It [an IID] is a very underused alternative in our area. Perhaps it needs to be mandatory after 3 OWIs, not optional."

"[The IID] Doesn't prevent the repeat offender from driving another car."

"The IID has actually been a problem in this case because the individual has not been able to find anyone to service the car since the IID was put on her car. Again back to Appleton when problems arise."

"The IID only assists non-alcoholic clients. The problem drinker figures out how to beat the system. I have actually seen ignition bypasses built around the IID after installation."

"I believe this person's IID was responsible for her not drinking in the time she had the IID. A mechanical 'antabuse.'" [Antabuse is a medicine for alcoholics that induces vomiting when alcohol is consumed]

"I think they work fairly well but there are still a lot of ways to get around them. We are trying to put Band-Aids on gaping wounds."

Opinions on non-compliance and cost

"Cost is the client's excuse, although I don't know that it's a valid one."

“I believe that people will continue to drive/often picking up a beater.”

“The cost is prohibitive to many offenders.”

“In this county, I believe the problem is lack of transportation, low income, ‘good old boy’ syndrome.’ Lack of employment opportunities, isolation of housing (boonies) help with the hardship due to IIDs.”

“The law is not enforced. Nobody from the courts follows up to see if they have had it installed. Once the word gets out that these are not checked on, nobody bothers.”

“If you are a multiple OWI offender – make a choice – public safety at a cost (your responsibility) of \$83/month or don’t drive... It costs a lot more to kill someone and most are spending that much in one weekend drinking.”

“If an offender has progressed to the point that their behavior warrants a court-ordered IID it is serious enough that the offender should be responsible to pay for the device.”

“I believe it is an undue hardship because the object is to get the driver to be sober when driving not punish them more. Most of the people at this point already have fines beyond their means.”

Opinions on coordination with other agencies

“Some sharing, more coordination necessary.”

“Very little [coordination]. One of the problems is the changing of judges.”

“It’s pretty good in our county.”

“There is no coordination at all that I know of.”

“In our area we are in contact an adequate amount and vary the contact as is warranted.”

“None at this point unless counties have active IPID meetings. [Our county] does but lacks attendance by legal and court personnel.”

“Plenty of information available already – coordination is the issue.”

Legal professionals opinions

The most voluble and complete responses came from the legal professionals. People in the courts system deal with the nuts and bolts of IIDs and other vehicle sanctions: prosecution, defense, and sentencing. These respondents are in a position to see many IID cases, and also to see repeat offenders return through the system when sanctions fail.

Unlike the law enforcement or assessment professional, the legal professionals may see a larger cross-section of drinking drivers. Also, legal professionals may hear fewer success stories, since everyone they deal with is at least *accused* of driving drunk.

Conclusions from legal professionals

- Members of the legal professionals survey seemed willing to concede the failings of IIDs. They were aware that while dozens of IID orders may be issued in their jurisdiction annually, the process for ensuring compliance is not strong. The legal professionals participants were not optimistic about the possibility of the IID altering an offender's behavior.
- Legal professionals reported considerably more experience with IIDs than either of the other two groups surveyed. The gap between courts experience and police and assessment experience points to a serious problem of non-compliance.
- Almost all respondents mentioned that more coordination with other agencies would be helpful, but many were unsure how they could fund or achieve this.
- Some jurisdictions were isolated from an IID provider, and this distance was sometimes construed as a hardship on the offender.
- Legal professionals respondents thought that federal standards for sentencing were too inflexible. Some thought that IID should be an option before a 3rd offense, and some wanted the latitude to not impose any sanction on a 3rd offense. Others thought that the IID needed to go on the vehicle right away, rather than after a one-year license revocation. One judge stated that the "Federal law should get with the program!"
- Legal professionals respondents took a more pragmatic outlook on the issue of IID cost. Many conceded that although the price of an IID was fair, the monthly expense meant that most people would not comply with the order. Several judges expressed a desire for a sliding-scale payment system, or the ability to waive fines with proof of IID installation.
- Legal professional opinions of immobilization were not high, and many respondents reported never or rarely using immobilization as a sanction.

Experience with IIDs and immobilization

“Every OWI 3rd case and above. We tend to do IID rather than immobilization.”

“Yes – [ordered IID] hundreds of times.”

“Common on OWI 3 and higher (weekly/monthly – as the cases arise).”

“I order them whenever permitted by law to do so. It is a rare exception when permitted to that I decide not to.”

“In almost all OWI cases an IID is ordered. Our county does not use immobilization, so on every OWI2 where the OWI1 is within 5 years, and on all OWI3s and above where vehicle seizure is not ordered, an IID is ordered.”

“Administered very few times.”

“Yes, occasionally. IIDs are not available in this jurisdiction but we see them ordered as conditions for occupation licenses from urban areas.”

“I would estimate that about 50-60% of the 500+ OWI cases our office handles each year involves an order of an IID.”

Opinions on non-compliance and cost

“Most offenders are facing exorbitant fines and prohibitive insurance costs. Many lose their jobs because of jail time or inability to get an occupation [license]. They simply won’t pay the cost of the IID.”

“Alcoholics spend their money on alcohol, not auto payments and insurance premiums.”

“The court does not set a ‘review date’ for the offender to return with PROOF that the IID was actually installed. The sheriff’s departments are not taking the initiative to see that the IID orders are obeyed.”

“The court should be allowed to reduce drunk driving and OAR fines dollar for dollar for money spent on IIDs.”

“There is no sanction in reality for non-compliance with [an] IID order.”

“It’s a fair price for the device, but the device in practice is a waste.”

“If the large fines don’t deter drunk drivers, the cost of the IID surely won’t.”

“The problem is implementation i.e. follow up/inspection for order enforcement.”

“There is no right to drive but if reduced costs on poverty/other basis would be offered, there should be equal application/availability for all.”

“Usually the offender can’t get an occupational license, so it becomes moot.”

“I think this is an undue hardship, especially in light of the already steep fines associated with OWIs, and the high insurance they are paying with SR22s. Most of these offenders don’t have money to go into treatment for alcohol issues, and then we ask them to pay this. I think we need to be very careful in setting up a system that makes it impossible to comply with.”

“The cost likely contributes to noncompliance, especially in light of steep OWI fines.”

“For the risks they pose to the community I don’t believe it is a hardship. Having a license is a privilege that carries rules (laws) along with it. It is not a right. I believe appropriate sanctions such as the IID are appropriate.”

“No one locally installs them. It is a minimum 60 miles to nearest installer. I don’t know if it is a hardship but it is unrealistic.”

“Implementation is the problem. There is no one to actively check on compliance.”

Opinions on coordination

“There needs to be more. But with precious resources, this can be difficult.”

“We have an ‘Intoxicated Driver Intervention Program’ that has included coordination and information sharing. Perhaps a semi-annual meeting would also be helpful.”

“There is little currently. More is needed.”

“Little coordination – much more needed.”

“Everything is confidential!”

Vendor input

IID vendors were also contacted to offer their opinions on policy and implementation. The discussion occurred via telephone, rather than by survey. Representatives of Guardian, Lifesaver and Consumer Safety Technology were consulted.

Vendors provided some of the standards arguments in favor of the IID. First, the IID is fairer to the family, since it does not remove the car from use by spouse and children. By allowing the offender access to a car, the IID lets the offender continue working and earning money. Secondly, the cost of an IID is a small price to ensure public safety, and especially small given that offenders can spend hundreds of dollars a month on alcohol. Third, IIDs provide a way to keep non-violent offenders out of jail, saving the state money and giving the offender a chance to immediately improve their life.

Vendors were receptive to the idea of a fee offset, where proof of IID installation would reduce fines and court fees. One did not accept the idea that cost was keeping offenders from IIDs; but another was quite explicit that the monthly maintenance and servicing cost was reducing compliance. Both thought a public subsidy for IIDs would increase compliance.

One vendor thought that IIDs were directly altering offenders' behavior by rewarding and punishing them. Another vendor stated that the IID is a behavior modification tool because the offender can better understand that there is a relationship between the blood alcohol content and driving. One vendor thought that some people chose to comply with the IID because they had resolved to change their lives. In other words, the IID to help them reform. Both expressed optimism about the IID's capacity when properly installed and serviced.

The federal standards were not popular with vendors, especially the year-long license suspension before IIDs can be installed. One vendor wanted IIDs to be available before a 3rd offense, at the discretion of the court. One vendor stated that the IID should be used not just for repeat offenders, but for first time offenders as well.

In the area of compliance, vendors readily acknowledged that many orders are not complied with. Budget constraints on courts and municipalities were thought to make them wary of pursuing the IID too vigorously. One vendor saw assessment professionals as the key to compliance: since they are in contact with the offenders on a regular basis, they are in a position to ensure compliance. Another was not sure if offenders could be forced to comply with the order. A third vendor indicated that, in Iowa, the offender is required to show proof of compliance through a certificate administered by the State DOT and felt that this was very useful.

One vendor disputed the assertion that IIDs are not uniformly available statewide, and stressed their diversity statewide and their willingness to accommodate. This vendor noted that he operated in cities across the state and was equipped with a mobile van for service. Another acknowledged that service was not uniform, and that the distance and

expense of traveling to service centers could further deter compliance. A third vendor indicated that the company had just recently come into the IID market in Wisconsin and that their goal was to provide service centers within 50 miles for any offender throughout the state (i.e., through auto dealers, garages, circuit cities).

The Commercial Element of IIDs

Phase I of this report noted another possible element of geographic bias in IID distribution. Counties closer to IID vendors appeared to order proportionally more IIDs than those further away. To gauge this effect, legal professionals (who included judges, DAs and private attorneys) were asked if an IID vendor contacted them.

Five out of 28 respondents said they had been contacted. The sample is not large enough to discern the significance of this number, or to confirm whether IIDs were used more frequently in areas closer to vendors. Still, it confirms that IID companies are in contact with the courts system. Discussions with IID vendors confirmed that one firm used meetings and direct mailings to raise the awareness of IIDs amongst district attorneys and judges.

Chapter Four: Analysis of Responses

Trends within a group - Individual consistencies

Again, the four statements to which respondents offered their opinions were:

1. *“The ignition interlock device is an effective law enforcement tool to curb drunk driving.”*
2. *“Vehicle immobilization is an effective law enforcement tool to curb drunk driving.”*
3. *“By providing positive and negative feedback to the driver, the IID changes the behavior of the offender.”*
4. *“Money spent on IIDs could be spent more effectively on other programs such as education and prevention.”*

Responses to statement one and statement two tended to be similar. Whether the response was positive, negative or neutral, people had similar responses to both questions. This trend was true across all three groups. People either believed that vehicle sanctions were an effective tool to deal with recidivism, or they did not, with some unsure.

Also, reactions to statements one and two were usually the opposite of reactions to statement 4. Those who approved of vehicular sanctions were skeptical about the reallocations of money from sanctions to prevention and education; similarly, those disapproving of vehicle sanctions thought the money could be spent more wisely elsewhere.

Trends between groups

The different professions surveyed responded very differently to certain questions. The most telling difference was when participants were asked how often they saw or dealt with IIDs. While District Attorneys and judges said they often dealt with IID cases, law enforcement and assessment professionals overwhelming said that they rarely, if ever, saw an IID. This highlights one of the central findings from Phase I of this study: *most IID orders are never complied with.*

The division in responses suggests that *implementation of the order is the weak link in the IID process.* The problem is that the offender is responsible for not only seeking out the IID installation, but footing the bill as well. This raises a theme that divided the respondents into two camps. One the one hand some advocated increased surveillance and tougher recrimination for failure to install. On the other side, some saw the IID as an essentially doomed program, a technical device being used to deal with larger societal problems of alcoholism and reckless behavior.

Assessment professionals had the most optimistic view of the IID's possibilities. Part of this difference could be explained by the temperament required for the job. Assessment workers tended to have a more malleable and flexible notion of behavior – they were the most likely to agree with the idea that the IID changes a driver's behavior through direct feedback.

The opinions of police and sheriffs conflict with the opinions of assessment professionals. Law enforcement deals daily with people violating the law, while the assessment professionals attempt to change behavior to prevent further violations. Law enforcement officers see OWI offenders from the opposite end of the legal system as assessment professionals. Thus it may not be surprising that law enforcement had a more pessimistic view of the potential of vehicular sanctions. Since police, sheriffs and state patrol repeatedly come face to face with the implementation failures of IIDs and immobilization, they tended to be more critical of the long-term effects of these sanctions.

Geographic Trends

A division exists between urban and rural respondents in this survey. Generally, participants from more populated areas held higher opinions of IIDs and vehicle sanctions generally. They felt that the cost of IIDs was fair, and that IIDs were aiding the reduction of drunk driving.

In contrast, respondents from rural counties had lower opinions of the IID. Many mentioned the cost of the device, and the inconvenience of remote service and installation locations.

Clearly, the availability of alternative means of transportation could be a factor in explaining this difference. When a person can travel to and from work by foot, bicycle or public transit, the IID has a greater chance of working. But when an automobile is imperative for daily commuting and alternatives do not exist, the IID has a far smaller chance of success. In many rural parts of the state, life cannot work without a car.

In addition to geographic trends in density, there are also geographic trends in income. Separating the two trends are important – denser counties tend to be wealthier, and sparsely populated counties less wealthy. We do not want to confuse one effect for the other. That is, wealthier areas may see IIDs as more effective since orders are more often complied with. The offender has the funds, complies with the order, and IIDs appear useful and straightforward.

Ultimately, the survey data is insufficient to quantitatively address geographic differences. Moreover, it would not be possible to separate the effects of income and other variables. Nonetheless, regional divisions exist in people's perception of IID. Local authorities are able to exercise considerable autonomy in deeming the IID an undue hardship on the offender. For example, three survey respondents from the less-populated counties of Lincoln, Clark, and Langlade reported never encountering an IID. These

counties have population densities of fewer than 40 people per square mile, compared to 365 in Dane County and 3900 in Milwaukee County. *State law applies to all areas, but in the case of the IID, there is clearly quite a bit of local flexibility to take into account differing conditions.*

Chapter Five: Addressing IID non-compliance

Revisiting the purpose of IIDs and immobilization

One of the central questions emerging from phase I of the investigation of IIDs is: why are so few people complying with court orders for IIDs? The responses from legal professionals, assessment professionals, law enforcement and vendors shed some light on this issue.

It may be useful to revisit a section from Phase I of this report, the reasons for criminal punishment. Laws and sanctions may be enacted to deter, to incapacitate, to rehabilitate, or to visit retribution on the offender. The IID occupies a nebulous position, promising to do many or all of these things. What does the evidence tell us?

Most survey participants agreed that the IID does not act as a deterrent. First, the device is not widely known or understood by the general public. Second, since the recidivist has not been deterred by other unpleasant side effects of drunk driving – arrest, fines, loss of license and possible jail time – it is unlikely that the specter of an IID order would alter his behavior.

The IID is also not a device of retribution, at least not principally. The device, after all, allows the recidivist to drive, so long as he stays sober. The strength of the IID as a sanction, trumpeted by its advocates, is the very fact that IIDs are not so retributive as the other sanctions that decisively remove the automobile.

Rehabilitation is a questionable component of IIDs. Participants were asked whether they thought IID altered the offender's behavior. Responses were fairly evenly distributed between agreement, disagreement and neutrality. Evidence from phase one of the report was similarly equivocal on this issue.

Respondents from all groups recognized that IIDs are not uniformly enforced. The recidivist who flaunts an IID order knows that he has a reasonable chance of continuing to drive without being arrested. So he takes his chances, driving carefully, knowing that in the unlikely event of being stopped the officer may not be aware of the law surrounding IIDs.

Similar anecdotes exist for drivers with revoked licenses, drivers using marijuana, and drivers with occupational licenses. When a person risks arrest by simply driving, he tends to drive quite slowly and mindfully. Thus one goal has been achieved: increasing the safety of the streets and decreasing the public menace on roads. Another goal, punishing or restricting the driver, has not been achieved – the driver keeps his/her privilege, albeit in a paranoid state. Thus the IID may improve traffic safety while being a poor incapacitator.

The primary function the IID can provide is incapacitation, and the IID *itself* is an incapacitator. But although there are offenders who comply, respondents concluded that the *body of law and the enforcement* of the IID are not incapacitating.

Fixing the Ignition Interlock Device

Respondents from all categories agreed that IID implementation was insufficient. The problem was usually seen to lie in another branch of the government: courts faulted sheriffs on follow up, law enforcement faulted prosecutors on over zealousness, judges faulted the federal rules as inflexible, and several respondents faulted the DOT. A common refrain existed amongst the disagreement – there was not enough time available, or money dedicated, to making IIDs a tenable solution to repeat drunk driving.

One of the few overwhelming points of accord amongst respondents was that the IID *device* was probably not responsible for the shortcomings of the IID *program*. Although people's experience with the device varied widely, some having never even seen an IID and others having dealt with them hundreds of times, the general sentiment was that the IID worked fine.

Here the respondents split on what was wrong and how to fix it. Some were sure that with *proper implementation and enforcement*, IIDs could act as an effective law enforcement program, keep roads safer, and assist offenders in recovery. They proposed solutions such as: steeper penalties for failure to install IIDs; a stronger mandate to sheriffs and police to enforce IID orders; and some even suggested that IIDs should be installed in every new vehicle by auto manufacturers. At the behest of the court, the IID could then be activated after the driver had committed a certain number of offenses.

But others surveyed felt that *the very notion of IIDs as a rehabilitation and incapacitation tool was flawed*. They pointed to the holes and weaknesses that accompany IIDs: securing another vehicle is not difficult; people in most areas of Wisconsin need automobiles for commuting and shopping; enforcement of IIDs will never be a priority for police time; and without public funding, the individual financial burden of an IID (in addition to OWI fines) will be too steep for most people to comply.

Among the skeptics, there was a further division into two camps. Some thought that IIDs were a misguided, overly technical solution. These participants thought simpler methods such as seizure were more direct and effective, if less nuanced, than IIDs. Others among the IID skeptics simply did not believe vehicular sanctions were an effective law enforcement tool. In all three groups surveyed, approval of the IID was strongly correlated with approval of immobilization and other sanctions. Similarly, disapproval towards the IID was strongly correlated with disapproval towards the other sanctions.

The Issue of Cost – Agreement and Disagreement

Many respondents mentioned cost as a factor in non-compliance. The installation of the IID, and the monthly maintenance fees, were thought to deter IID participation.

Participants who thought cost was a factor were not necessarily sympathetic to the plight of the recidivist – many pointed out that alcoholics often spend more on drinking in a weekend than the monthly cost of IID maintenance. Staking out a middle ground, some thought the fiscal burden was harsh but a needed wake-up call to adjust the behaviors of the habitual drinking driver. However, some respondents thought that the financial pressure of the IID not only rendered the device ineffective, but also was a disproportionate penalty on low-income offenders. The high cost of the device supplants other elements of recovery and rehabilitation that may be more useful in the long run.

A heated point of discussion in the surveys was the cost and payment scheme for IIDs. Currently the offender must bear the entire cost of IID installation and maintenance, which can cost from \$800 to \$1000 annually. Participants were asked if this was a fair price to pay or an undue hardship. Many responded by shifting the question away from a normative issue and towards a pragmatic one. One District Attorney summarized the wealth of opinion nicely:

“It is not unfair to make an offender pay for the costs of their actions. It is naïve if you actually expect them to pay it.”

Another legal professional's respondent echoes this opinion in their answer:

“Who knows what is fair? I just know that most repeat offenders are not going to pay or can't pay.”

In other words, the IID is a fair penalty in theory. But in practice financial issues are one of the main, if not the main, obstacle to IID compliance. If we want the IID to work, or even if we simply want to understand why it will not, we must take poverty and the financial irresponsibility of alcoholism into account.

Many respondents were more moralistic in their outlook. In their opinions, the cost is fair, because drivers have a responsibility to abide by the rules of public discourse and safety. When a person demonstrates extreme irresponsibility in this public sphere, they must pay a steep penalty to be allowed to participate again. Furthermore, offenders are clearly spending large sums on alcohol, so asking them to redistribute this money towards the IID is not an unjust imposition. One sum quoted was \$15 a day for alcohol, versus \$3 a day for an IID. Vendors of IIDs were especially firm on this view, and said that demanding this payment from the offender was the first step towards redirecting their money from alcohol to a more stable life.

Despite the strength of this argument, many of those surveyed disagreed and thought the cost of IIDs was a central component of their implementation failure. Taking a more results-oriented perspective, they acknowledged that although the cost may be fair, the financial demand nonetheless seriously contributes to IID non-compliance. For an extreme analogy, it may be fair to ask felons to pay for the cost of their imprisonment; however, it certainly is not likely, feasible or sustainable.

The Rising Cost of OWI Offenses

Receiving an IID has become more and more costly in Wisconsin. Currently, a driver improvement surcharge of \$355 is attached to each OWI offense, paid by the driver. On July 21st 2003, the Wisconsin State Journal reported that Assembly Bill 164 would increase this surcharge to \$455. With court fees, the processing of an OWI would then cost the driver \$844 under the new charge.

With the state increasingly strapped for revenue, the search for new revenue has moved away from taxation and towards individualized fees and licensure, such as higher hunting and fishing fees and increased OWI charges.

However, attempting to fund law enforcement from fees levied on offenders is problematic. Offenders, and especially recidivist drunk drivers, often have a slew of other problems – alcoholism and other substance abuse are the most obvious – that make sustained employment unlikely. Simply put, these people rarely have the money; trying to squeeze more funds directly from the offender may appear fair to some, but it is unlikely to generate a stable revenue stream. A participant from Marathon County said:

“Many can’t afford their alcohol assessment and driver safety plans costs, so they can’t afford IIDs.”

Another from Adams County simply stated:

“\$\$\$! How many 3rd and subsequent OWI offenders have that kind of money? Most can’t pay their fines!”

Implementation of the IID law requires considerable cooperation and cooperation among the courts, law enforcement, alcohol assessment agencies and other agencies. Several of the respondents indicated that if the goal of the IID program is to improve public safety by keeping unsafe drivers off the road, then public money should be committed to the program.

The Need for Coordination

One unifying strand across the groups surveyed was *the insufficiency of information sharing and coordination among the many agencies involved in dealing with drinking drivers.*

This fits with the earlier finding that IID orders occupy a void where nobody is quite sure whose responsibility it is to follow through on them. Without coordination, courts are not aware of non-compliance with court orders, and law enforcement and assessment professionals are not aware of instances where OWI offenders are in fact under mandate to have an IID.

By and large, participants thought coordination was inadequate, though some felt it was good in their area or jurisdiction. Some respondents mentioned local programs such as the Intoxicated Driver Intervention Program or the Victim Impact Panel and spoke highly of these efforts. The reasons for poor coordination were numerous: privacy concerns; insufficient funds; not knowing where to start; or not enough staff. Many people responded enthusiastically to the possibility of more coordination among agencies. Many noted the need for a more holistic approach to the problem of drunk driving, and increasing coordination between the various agencies would be a simple place to start.

IIDs versus Immobilization versus Vehicle Seizure

The issue of cost and funding dovetails into the discussion of the three available vehicle sanctions. As seen in part one of this report, the IID is far and away the most frequently ordered sanction, and in preliminary 2003 figures its popularity continues to grow. When asked about IIDs in comparison with other sanctions, respondents often pointed to the fact that IIDs did not require the investment of public time and money that seizure and immobilization require.

One attractive feature of the IID is that it is precise where other sanctions are coarse. That is, whereas seizure or immobilization bans a whole family from using the vehicle, IIDs allow spouses and children to continue to use the car, so long as they are not intoxicated. This sensitivity appealed to many people, especially in the courts. However, the IID in practice is far different than in theory. Since most IID orders are not acted upon and installed, the benefits of IID precision are not often experienced.

In fact, some legal respondents saw seizure as the most effective method in theory. But most recognized that the financial aspect of seizure was untenable. There was also a tension between the legal branch and law enforcement – some legal professionals respondents saw police as unwilling to go through with seizure, either because of the time required or a reluctance to deprive rural residents of automobiles.

Funding, IID non-compliance, and vehicle sanctions

One of the few refrains that could be heard throughout the survey was the need for more funding to make IIDs work.

Compared with other vehicle sanctions, orders for IIDs have grown steadily. Many communities experienced difficulties with seizure and immobilization, where the resources expended far outweighed the benefit secured. As such, many jurisdictions have turned to IIDs as an almost automatic response to an OWI that falls within federal repeater standards – a 2nd or subsequent offense within five years.

The IID is attractive in part because it is apparently self-funding. Unlike seizure, where anecdotes abound of thousands of dollars of time spent seizing vehicles worth \$200, IIDs are in theory, self-administering and do not require extensive court or law enforcement time. With budget cuts, the IID will only become more attractive.

But this very fact leads to the fundamental problems of Wisconsin's IID program. IIDs are beguiling to cash-strapped courts and police departments, because they do not require the time and effort of other sanctions. Yet without time and effort, IID orders largely go unheeded and the offender unpunished. Expecting the IID to serve its purpose under current conditions is not viable.

The IID is politically attractive. It is a high technology device that appears to provide an immediate answer to the persistent problem of drunk driving. It makes good public relations, and the offender is required to foot the bill. But without investment in the implementation of the IID law, the device cannot perform its function.

One way or another, more funding is needed to make IID an effective law enforcement tool. Some respondents thought that the price of IIDs was fair: in that case, more money must be devoted to ensuring compliance, including additional court dates, officer time to check installation, and resources for communication between the various agencies. Others respondents believed the cost of IIDs was fundamentally unrealistic for alcoholics with many problems. In this case, a public subsidy is needed to increase IID compliance, to provide a sliding scale for lower-income offenders.

Most participants reported that public knowledge of IIDs is minimal, and some reported that their own knowledge of IIDs was small. Another direction for funding could be public education and outreach, to make reliable information on IIDs available.

Suggestions from survey respondents

In the course of answering open-ended survey questions, several participants suggested ways to improve IID service and implementation.

- **Sliding scale payments.** The cost of IIDs repeatedly arose as a major reason for non-compliance. If lower-income offenders could pay less for the device, respondents suggested, compliance with orders would be higher.
- **A dollar-for-dollar reduction in fines with proof of IID payment and installation.** Rather than demanding that offenders with scant resources pay large fines and the full cost of IID installation, some participants suggested a system where the cost of verified IID installation would offset the fees levied in court.
- **Scheduling a second hearing to verify IID installation.** Offenders would be required to appear in court a certain amount of time after their sentencing to prove compliance.
- **Transfer the responsibility for tracking IIDs to the arresting agency, rather than the county sheriff.**
- **Make assessment professionals responsible for IID compliance, since they are in contact with the recidivists most frequently.**
- **Although unlikely, more than one participant thought that IIDs needed to be installed in every new vehicle.** With this in place, the court would only need to

flip a switch to activate the IID on a repeat offender, removing the problems of compliance.

Phase II Report Findings

- **Assessment professionals held a more optimistic view of IIDs, and sanctions generally, compared to law enforcement and legal professionals.**
- **The survey results for immobilization are mixed. Legal professionals and assessment agencies tend to hold a somewhat higher opinion of immobilization than do law enforcement. However, several respondents (i.e. law enforcement) indicated that immobilization has not proven to be an effective sanction, and that many counties do not have a vehicle immobilization program.**
- **Some respondents (e.g., law enforcement) were skeptical of the effectiveness of any vehicle sanctions due to practical concerns about enforcement – a respondent simply claimed, “They’re all ridiculous.”**
- **Many participants from all the groups surveyed mentioned the issue of ‘follow-through’ or ‘follow-up.’** The respondents felt that IIDs were not a lost cause, but that the state needed to take a more active role in order for the IID program to be effective.
- **On the issue of coordination among courts, law enforcement and assessment agencies, there was general agreement that more cooperation and information sharing is needed and would be beneficial for everyone.**
- **Judges order IIDs more frequently than other sanctions, and some respondents thought this was because the offender bears the entire cost.** These same respondents thought that the IID has turned out to be an unreliable sanction because of this cost structure. Respondents were split on whether the cost of IIDs is fair, but agreed that requiring the offender to wholly pay for their sanction has not been successful thus far.
- **Many respondents from all the groups felt that more money needs to be committed to the IID program to make it more effective.** Respondents were split on where this money should go: some thought that funding enforcement would ensure IID success; some believed that preventative spending on education was the key; others believed money should assist offenders to right their lives after the offense.
- **Some respondents surveyed saw IIDs as politically attractive solutions that make good public relations.** However, others felt the IID was shallow, appealing on the surface but quite difficult to implement properly, and unable to address the underlying problems of drinking and driving in the long term.

- **Survey results indicate that public awareness of IIDs and the body of law surrounding them is minimal.** Assessment professionals, law enforcement and the courts often evaluated their own knowledge of IIDs as adequate or minimal, but rarely excellent.
- **Courts appear to exercise a certain amount of discretion in ordering IIDs.** In rural areas far from installation centers, judges are more hesitant to issue IID orders.
- **Some respondents indicated that IIDs are not uniformly available statewide, and this discrepancy has affected the distribution of IIDs.** Two vendors disputed the assertion that IIDs are not uniformly available statewide, and stressed their diversity statewide and their willingness to accommodate. One vendor noted that he operated in cities across the state and was equipped with a mobile van for service. Another acknowledged that service was not uniform, and that the distance and expense of traveling to service centers could further deter compliance.
- **One of the three IID vendors indicated that they promote the IID as a law enforcement tool to judges.**
- **The Federal, “repeater law” hampers the effectiveness of IIDs.** Since IIDs have been shown to be most effective when installed immediately after the offense, the current one-year hard suspension, followed by an IID order, severely limits IID efficacy. Legal professionals in particular thought that more latitude should be given in ordering IIDs and sanctions in general.
- **Some respondents (from all three groups) felt that an effective IID program cannot place the burden of compliance solely on the offender.** These individuals indicated that one of the aims of the IID is to enhance public safety, and some public time and money is necessary to achieve this goal.

Appendix A: Law Enforcement Survey

The following is a questionnaire on Ignition Interlock Devices (IIDs) and vehicle immobilization. This questionnaire is part of a legislatively mandated evaluation of state law. You have been chosen to participate in this survey because of your status and/or knowledge of this area. Your time is greatly appreciated. These responses will be synthesized into the final component of the official report on Ignition Interlock Devices and will be presented to the Wisconsin State Legislature by December 2003.

If at all possible, please complete and return this survey by June 20th, 2003.

Print surveys should be accompanied with a pre-posted return envelope. Email surveys should be returned to:

[address removed]

If you would like to receive this survey in a different format, or if you have any questions, please contact [name removed] at the above email, or at (608) 26x-xxxx. We may be interested in follow-up questions, so please provide a phone number.

Thank you in advance for your participation.

Bureau of Transportation Safety

Please list your name, geographic location and occupation:

Please circle your response to the following four statements:

1. The Ignition Interlock Device is an effective law enforcement tool to curb drunk driving:

Strongly Agree Agree Neutral Disagree Strongly Disagree

2. Vehicle immobilization is an effective law enforcement tool to curb drunk driving:

Strongly Agree Agree Neutral Disagree Strongly Disagree

3. By providing positive and negative feedback to the driver, the IID changes the behavior of the offender:

Strongly Agree Agree Neutral Disagree Strongly Disagree

4. Money spent on IIDs could be spent more effectively on other programs, such as education and prevention:

Strongly Agree Agree Neutral Disagree Strongly Disagree

5. Do you have any comments or clarifications regarding the four questions above?
6. What, if any, experiences have you had in the field with the IID? How often do you encounter IIDs?
7. DMV data shows that the majority of court orders for IIDs are not complied with. Why do you think this is the case? Is the problem the device itself, or the implementation of IID law?
8. Offenders must pay for IIDs, which can cost up to \$1000 a year. Is this an undue hardship on the offender, or a fair price to pay? Why?
9. How much training, if any, have you received on IIDs and the laws surrounding them?
10. How knowledgeable do you feel about IIDs?
11. How much coordination and information sharing is there between the courts, the law enforcement agencies and people involved in treatment of alcoholics and drunk drivers? Does there need to be more or less?
12. IIDs are one of three vehicle sanctions available in the state – the others are vehicle immobilization (the boot or the club) and vehicle seizure. How do you think IIDs compare to these other sanctions in feasibility and effectiveness?
13. Has your community ever used vehicle immobilization? If so, has immobilization been a successful technique in reducing drunk driving? Is the program still in place?
14. Are IIDs common or uncommon in your area? Are IIDs used too frequently or not frequently enough? To what degree is the public aware of the existence of IIDs?
15. Research on IIDs finds that the devices are most effective for the year immediately following the offense. Currently, federal standards prohibit the use of IIDs within the first year following an OWI conviction. Given this, are IIDs a worthwhile tool in the law enforcement toolkit? Why or why not?
16. Any further thoughts on IIDs or vehicle immobilization?

Appendix B: Assessment Professional Survey

The Assessment professional survey was identical to Law Enforcement survey, except for question 6. In the assessment survey, question 6 read:

Have you worked with people who had IID orders? How often? Did the IID assist in the recovery?

Appendix C: Legal professionals Survey

The Legal professionals survey was identical to the Law Enforcement survey, except for question 6, and the addition of a question at the end.

Question 6 in the legal professionals survey read: Have you ever dealt with a case where an IID was ordered? How often?

The additional question was: DMV statistics show that IIDs are more frequently ordered in counties close to an IID vendor. Have you been contacted by an IID vendor? If so, when and how frequently?

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